IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.544 OF 2001

Gulab Jethanand Khemnani. ..Appellant.

V/s.

The State of Maharashtra. ..Respondent.

WITH

CRIMINAL APPEAL NO.201 OF 2002

Mohd. Parvez Mohd. Jaffar Soda ..Appellant.

V/s.

The State of Maharashtra. ..Respondent.

WITH

CRIMINAL APPEAL NO.445 OF 2001

Gullu @ Gul Ghansham Hashmatrai Lakhani. ..Appellant.

V/s.

The Asstt.Commissioner of Police,
Sakinaka Division, Mumbai & Anr. ..Respondents

WITH

CRIMINAL APPEAL NO.456 OF 2001

Tejas @ Teja Manjibhai Patel & Ors. ..Appellants.

V/s.

The State of Maharashtra. ..Respondent

WITH

CRIMINAL APPEAL NO.516 OF 2001

Ashok Durgashankar Awasti. ..Appellant.

V/s.

The State of Maharashtra. ..Respondent

WITH
CRIMINAL APPEAL NO.518 OF 2001

Salim Yaqub Kara. ..Appellant.

V/s.

The State of Maharashtra. ..Respondent

Mr.Naveen Chomal for appellant in Appeal No.544 of 2001(org.accused No.5)

Mr.U.S.Vanjara for appellant in Cr.Appeal No.201 of 2002(org.accused No.1)

Mr.Anil Lalla i/b Lalla & Lalla for appellant in Cr.Appeal No.445 of 2001(org.accused No.6)

Mr.S.G.Rajput for appellant in Cri.Appeal No.456 of 2001(org.accused No.7 to 9).(absent on 20/12/2006)

Mr.Amit Sale i/b. M.L.Patil for appellant in Cr.Appeal No.516 of 2001(org.accused No.4).

Mr.Q.A.Siddiqui, for appellant in Cri.Appeal No.518 of 2001(org.accused No.3)(absent on 20/12/2006)

Dr.S.S.Tatkare, APP for State in all the matters.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 20, 2006.

P.C. :

1. For the reasons separately recorded in the Judgment pronounced in open court today, following operative order is passed.

(i) Appeal preferred by Accused No.3 is dismissed. However, direction is given to the

State Government to take appropriate steps to forthwith secure custody of the said accused to undergo period of sentence awarded against him by the trial Court; and if required, take recourse to Section 80 and/or 82 of the Code of Criminal Procedure, 1973, if already not done. Compliance in this behalf be reported to this Court within 8(eight) weeks.

(ii) The appeals filed by accused Nos. 6 to 9 are allowed. The Judgment and order passed by the trial Court recording finding of guilt against them for offence punishable under section 489B and 489C of I.P.Code is set aside. Instead, they are acquitted of the said charges by giving benefit of doubt. The bail bonds of the accused Nos. 6 to 9 to stand cancelled. Muddemal concerning the accused Nos. 6 to 9 be disposed of in accordance with the law.

(iii) In the appeals preferred by Accused Nos. 1, 4 and 5, the finding of guilt recorded by the trial Court for the offence punishable under section 120-B of I.P.Code and

Section 3(2) r/w Section 2(1)(a) of M.C.O.C.Act and section 489B, 489C r/w 120-B of I.P.Code and Section 3(5) r/w Section 4 of M.C.O.C.Act read further with Section 120-B of I.P.Code is upheld. However, on the point of sentence, as counsel appearing for the parties intend to make submissions and in particular the Public Prosecutor desires to take instructions from the Jail authority about the report in so far as accused Nos. 1, 4 and 5 are concerned, hearing of these appeals on the point of sentence is deferred till 22nd December, 2006.

. All concerned to act on the copy of the operative order passed by this court to be issued duly authenticated by the office.